

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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In the Matter of	)	
	)	
METROPOLITAN EDISON COMPANY	)	Docket No. 50-289
	)	Restart
(Three Mile Island Nuclear	)	(Emergency Planning)
Station, Unit No. 1)	)	

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

LICENSEE'S OPPOSITION TO AAMODT MOTION  
FOR RECONSIDERATION OF ALAB-697

On March 8, 1984, the Aamodts served a Motion for Reconsideration of ALAB-697. This motion was based on allegedly new information concerning emergency planning for farmers around Three Mile Island, Unit No. 1 ("TMI-1"). Licensee is aware of Appeal Board guidance that it never will be necessary for a party to respond to a petition for reconsideration unless requested to do so. E.g., Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-544, 9 N.R.C. 630, 630-31 (1979); Maine Yankee Atomic Power Co. (Maine Yankee Atomic Power Station), ALAB-166, 6 A.E.C. 1148, 1150 n.7 (1973). Out of an abundance of caution Licensee files this brief opposition.

1. The Appeal Board no longer retains jurisdiction to entertain the Aamodt motion. The Licensing Board decision on emergency planning issues was issued on December 14, 1981. See LBP-81-59, 14 N.R.C. 1211. Included therein

was a full review of the Aamodts' contentions relating to the adequacy of emergency planning for farmers. 14 N.R.C. at 1671-80. This Appeal Board issued its decision on emergency planning issues on October 22, 1982. See ALAB-697, 16 N.R.C. 1265. Included therein was another consideration of the Aamodts' contentions relating to the adequacy of emergency planning for farmers. 16 N.R.C. at 1275-80. On November 15, 1982, the Aamodts filed with the Commission a petition for review challenging the Appeal Board conclusion on the adequacy of emergency planning for farmers. By a vote of 5-0 the Commission declined to review the Appeal Board decision relating to the adequacy of emergency planning for farmers. See Memorandum from Chilk to the Parties (February 3, 1983). Accordingly, the Appeal Board decision in ALAB-697 became the final agency action on February 2, 1983. Id.

In these circumstances, the law is clear that this Appeal Board no longer retains jurisdiction to rule on the Aamodt motion for reconsideration. See, e.g., Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit No. 2), ALAB-579, 11 N.R.C. 223, 225-26 (1980); Public Service Co. of New Hampshire (Seabrook Station, Units 1 & 2), ALAB-513, 8 N.R.C. 694, 695 (1978).

2. The Aamodt motion for reconsideration raises issues previously considered and rejected by both this Appeal

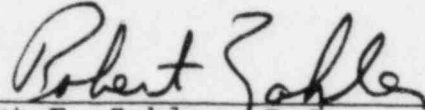
Board and the Licensing Board below. The crux of the Aamodts' complaint is that the Farmers Emergency Information brochure distributed by the Commonwealth of Pennsylvania "does not contain specific, suitable or acceptable recommendations for actions by which the TMI area farmers can protect themselves in the event of a radiological emergency at TMI" (Motion at 1). This claim was explicitly considered and rejected by the Licensing Board (see 14 N.R.C. at 1675-76, 1677 (¶¶ 1927-28 & 1932)) and by the Appeal Board (see 16 N.R.C. at 1275-76, 1278-80). Indeed, the Appeal Board observed that Pennsylvania's emergency planning for farmers "goes beyond the regulatory requirements and devotes considerable attention to the special needs of farmers" (id. at 1275).

The Aamodts' present motion for reconsideration merely raises once again the Aamodts' apparent dissatisfaction with the specific advice offered by Pennsylvania to aid farmers in responding to a radiological emergency at TMI. The motion provides no reason for the Appeal Board to replot this issue. It advances no arguments not previously presented to the Commission and its judicial bodies. The Aamodt motion is little more than a fourth attempt to reargue its position.

For all the foregoing reasons, the Aamodt motion  
for reconsideration of ALAB-697 should be rejected.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



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Dated: March 23, 1984

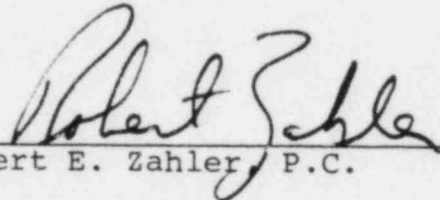
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Licensee's  
Opposition to Aamodt Motion for Reconsideration of  
ALAB-697" were served this 23rd day of March, 1984, by  
deposit in the United States mail, first class, postage  
prepaid, upon the parties on the attached Service List.

  
Robert E. Zahler, P.C.

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